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REMARKS

Applicant has deleted claims 1 to 13 and replaced them with claims 14 to 25.

The following explains the relationship between the features in the present claims and those presently on file:

New claim 14 = claims 1 and 11.

New claim 15 = claim 12.

New claim 16 = claim 13

New claim 17 = claim 2

New claim 18 = claim 3

New claim 19 = claim 4

New claim 20 = claim 5

New claim 21 = claim 6

New claim 22 = claim 7

New claim 23 = claim 8

New claim 24 = claim 9

New claim 25 = claim 10

Given that the claims correspond with claims already on file, it is submitted that the amended claims enter no new matter and raise no new issues for Examiner's consideration.

The scope of Reber and Liddiard have been discussed at length in the previous response, and those comments are still relevant.

However, Applicant notes that Examiner rejected new claims introduced with last response on the basis that "the manner in which an apparatus is to be employed does not differentiate it from prior art apparatus satisfying the claimed structural limitations". Applicant agrees with the principle mentioned by Examiner, but respectfully disagrees that it is applicable to new claims 14 and 15 (old claims 11 and 12) in the manner suggested.

Claim 14 requires that the viewing device is "configured and arranged" such that, in use, there is a certain relationship between the sensor and coded data when the viewing device is

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positioned to overlap the substrate. Applicant understands from Examiner's comments that Examiner believes this feature has a similar effect to using the word "for" in a claim. The use of "for" merely requires that a device be capable of performing the function that follows that word. In such a situation, it naturally follows that the fact an alleged anticipatory device is not intended to be used in a certain way does not prevent it being cited against a claimed combination if it reasonably *could* be used in the claimed fashion.

In the present case, however, there is defined a device having a number of components that are arranged together in a particular way such that they are capable of operating in a particular fashion. In this regard, the language in the last part of claim 14 is not merely indicative of a *use* to which the device *could* be put. Rather, it introduces functional limitations that delimit the way the device, and its components, *must* be operatively arranged if the device is to function as defined.

In claim 14, it is required that the viewing device is "configured and arranged such that the sensor is operative to sense the coded data when the viewing device is positioned, in use, at least partly overlapping the substrate." This is not an issue of *capability* of use in a particular fashion. Rather, the language clearly requires that when the viewing device is positioned at least partly overlapping the substrate, the sensor is operative to sense the coded data. Clearly this is a functional limitation that requires there to be a number of particular structural and physical relationships between the device and its various components to operate in the defined way.

Comparing this to the citations, Reber is concerned with using a scanning wand to access a website on a computer. Claim 14 requires that the device overlaps the substrate, and that when this happens, the sensor is in a position to scan coded data the substrate. That is clearly not the case in Reber. What, in Reber, is "the device"? If it is the computer and associated hardware, Applicant respectfully requests that Examiner explain how this "device" is could ever be operable in the way defined in claim 14 to "overlap" the substrate and perform as defined in that claim. On that basis, it is respectfully submitted that the citations do not disclose the structural and functional features defined in claim 14, and that it is therefore allowable over those citations.

Claim 15 is of a similar type to claim 14, in that the functional limitations it defines are directly related to structural limitations of the device. In claim 15, the functional limitation

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is that the sensor is positioned between the display device and the coded data when the viewing device is "in use". So, whilst there is a functional limitation, it requires a structure capable of providing that functionality. The combination of citations proposed by Examiner is not, it is submitted, structurally capable of providing the functionality (and corresponding inherent structure) of claim 15. On that basis, it is respectfully submitted that the citations do not disclose the structural and functional features defined in claim 15, and that it is therefore allowable over those citations.

It is submitted that the remaining claims are all allowable due to their dependence on one or more patentable base claims.

CONCLUSION

In view of the comments above, it is respectfully submitted that the present invention, as claimed in each and every claim, is patentable over the cited art. Favourable reconsideration of the application is therefore respectfully requested.

Very respectfully,

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